

IC 20-28-10

Chapter 10. Conditions of Employment

IC 20-28-10-1

Leave of absence; generally

Sec. 1. (a) A school corporation may grant a teacher a leave of absence not to exceed one (1) year for:

- (1) a sabbatical;
- (2) a disability leave; or
- (3) a sick leave.

(b) The school corporation may grant consecutive leaves to a teacher.

(c) A school corporation may grant partial compensation for a leave in an amount the school corporation determines. However, if a teacher on a sabbatical serves an employer that agrees to reimburse the school corporation in whole or in part of the amount of the teacher's regular salary, the school corporation may grant full or partial compensation.

(d) A teacher who is pregnant shall be granted a leave of absence for the period provided in and subject to section 5 of this chapter.

(e) Except where a contract is not required under IC 20-28-7 in a situation that occurs before or after the commencement of leave, the teacher and the school corporation shall execute a regular teacher's contract for each school year in which any part of the teacher's leave is granted.

(f) The teacher has the right to return to a teaching position for which the teacher is certified or otherwise qualified under the rules of the state board.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-2

Leave of absence; rights of teacher; group insurance coverage; sick leave; probationary years of service; charges against teacher's accumulated sick days

Sec. 2. (a) Except as provided in section 1 of this chapter, rights existing at the time a leave commences that arise from a teacher's:

- (1) status as a permanent teacher;
- (2) accumulation of successive years of service;
- (3) service performed under a teacher's contract under IC 20-28-6-8; or
- (4) status or rights negotiated under IC 20-29;

remain intact.

(b) During a leave the teacher may maintain coverage in a group insurance program by paying the total premium including the school corporation's share, if any, attributable to the leave period. The school corporation may elect to pay all or part of the cost of the premium as an adopted or negotiated fringe benefit to teachers on leave.

(c) During a leave extending into a part of a school year, a teacher accumulates sick leave under IC 20-28-9-9 through IC 20-28-9-12,

or a salary schedule of the school corporation that provides greater sick leave, in the same proportion that the number of days the teacher is paid during the year for work or leave bears to the total number of days for which teachers are paid in the school corporation.

(d) Except as provided in section 1 of this chapter, during a leave of a nonpermanent teacher, the period of probationary successive years of service under a teacher's contract that is a condition precedent to becoming a permanent teacher under IC 20-28-6-8 is uninterrupted for that teacher. However, this probationary period may not include an entire school year spent on leave.

(e) All or part of a leave granted for sickness or disability, including pregnancy related disability, may be charged at the teacher's discretion to the teacher's available sick days. However, the teacher is not entitled to take accumulated sick days when the teacher's physician certifies that the teacher is capable of performing the teacher's regular teaching duties. The teacher is entitled to complete the remaining leave without pay.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-3

Leave of absence; sabbatical

Sec. 3. (a) A school corporation may grant a teacher, on written request, a sabbatical for improvement of professional skills through:

- (1) advanced study;
- (2) work experience;
- (3) teacher exchange programs; or
- (4) approved educational travel.

(b) After taking a sabbatical, the teacher shall return for a length of time equal to that of the sabbatical leave.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-4

Leave of absence; disability or sick leave

Sec. 4. (a) A school corporation may place a teacher, with or without written request, on a disability or sick leave not to exceed one (1) year.

(b) A teacher placed on a disability or sick leave without a written request is entitled to a hearing on that action under IC 20-28-7-1 and IC 20-28-7-3 through IC 20-28-7-5.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-5

Leave of absence; pregnancy

Sec. 5. (a) A teacher who is pregnant may continue in active employment as late into pregnancy as the teacher wishes, if the teacher can fulfill the requirements of the teacher's position.

(b) Temporary disability caused by pregnancy is governed by the following:

- (1) A teacher who is pregnant shall be granted a leave of absence any time between the commencement of the teacher's

pregnancy and one (1) year following the birth of the child, if the teacher notifies the superintendent at least thirty (30) days before the date on which the teacher wishes to start the leave. The teacher shall notify the superintendent of the expected length of this leave, including with this notice either:

(A) a physician's statement certifying the teacher's pregnancy; or

(B) a copy of the birth certificate of the newborn; whichever is applicable. However, in the case of a medical emergency caused by pregnancy, the teacher shall be granted a leave, as otherwise provided in this section, immediately on the teacher's request and the certification of the emergency from an attending physician.

(2) All or part of a leave taken by a teacher because of a temporary disability caused by pregnancy may be charged, at the teacher's discretion, to the teacher's available sick days. However, the teacher is not entitled to take accumulated sick days when the teacher's physician certifies that the teacher is capable of performing the teacher's regular teaching duties. The teacher is entitled to complete the remaining leave without pay. However, the teacher may receive compensation for the pregnancy leave under a collective bargaining agreement or, if the teacher is not represented by an exclusive representative, by governing body policy.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-6

Full-time defense service

Sec. 6. (a) This section and sections 7 through 11 of this chapter apply to a teacher who through:

(1) volunteering; or

(2) statutory selection;

enters defense service on a full-time basis.

(b) Because the United States Congress has decreed that it is imperative to increase and train United States armed forces personnel, this section and sections 7 through 11 of this chapter:

(1) provide protection for teachers who have been called to leave their positions to defend the nation due to the necessity of war or a state of emergency;

(2) preserve the status and contract rights under the laws to any teacher who enters the defense service; and

(3) place those teachers in a position that the defense service does not operate as an interruption of teaching service because the contract rights that each teacher had when entering the defense service are preserved during that service the same as if the teacher had not entered the service.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-7

Defense service; permanent teacher; leave of absence

Sec. 7. A permanent teacher:
 (1) with an indefinite contract under IC 20-28-6-8; and
 (2) who is described in section 6(a) of this chapter;
is granted a leave of absence during the defense service.
As added by P.L.1-2005, SEC.12.

IC 20-28-10-8

Defense service; nonpermanent teacher

Sec. 8. (a) If a nonpermanent teacher who is described in section 6(a) of this chapter enters the defense service, the teacher's contract as a teacher and the teacher's rights to probationary successive years under contract are preserved with the school corporation as the teacher had them when entering the defense service.

(b) The period of probationary successive years of service under a teacher's contract that is a condition precedent to becoming a permanent teacher under IC 20-28-6-8 is considered uninterrupted for a teacher to whom this section applies. However, this probationary period may not include the time spent in defense service. The teacher is granted a leave of absence during the defense service.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-9

Defense service; teacher's reinstatement status

Sec. 9. On reinstatement, the status of the teacher described in section 6(a) of this chapter is the same as when the teacher entered the defense service. All rights to changes of salary or position, except as specified in section 8 of this chapter, accrue to the teacher as if no interruption had occurred.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-10

Defense service; rights under teachers' retirement fund

Sec. 10. (a) A teacher described in section 6(a) of this chapter retains the teacher's contractual rights in the Indiana state teachers' retirement fund.

(b) Contributions and payments into the retirement fund shall be made in the same manner as they are made for a member of the fund who is granted a leave of absence under the law pertaining to that fund.

(c) The teacher is granted a leave of absence during the defense service.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-11

Defense service; reinstatement period

Sec. 11. (a) Not later than sixty (60) days after:

 (1) an honorable or medical discharge; or
 (2) release from active participation in the defense service;
a teacher who has received a leave of absence for defense service

shall return to the school corporation for reinstatement. The school corporation shall then reinstate the teacher.

(b) If the teacher is unable to return for reinstatement within the sixty (60) day period for any reason arising from mental or physical disability, the teacher has sixty (60) days after the date of removal of the disability to apply for reinstatement.

(c) On reinstatement or on written resignation submitted to the school corporation, the teacher's leave of absence and defense service is considered terminated.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-12

Antidiscrimination; marital status

Sec. 12. A governing body or the governing body's agent may not make or enforce a rule or regulation concerning the employment of teachers that discriminates because of marital status.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-13

Antidiscrimination; residence requirements

Sec. 13. (a) A governing body may not adopt residence requirements for teachers or other school employees in the governing body's employment, assignment, or reassignment for services in a prescribed area.

(b) A school corporation that violates subsection (a) is ineligible for state funds under all enactments regarding that subject. The state superintendent and other state officials shall administer the funds accordingly on the submission of sworn proof of the existence of the discriminatory residence requirements.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-14

Teacher's freedom of association

Sec. 14. (a) A school corporation may not dismiss or suspend any employee because of affiliation with or activity in an organization unless that organization advocates:

(1) the overthrow of the United States government by:

(A) force; or

(B) the use of violence; or

(2) the violation of law;

to achieve its objective.

(b) A rule or regulation contrary to subsection (a) is void.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-15

Teacher as public office candidate

Sec. 15. A governing body may not dismiss, suspend, or enforce a mandatory leave of absence on a teacher who is a candidate for public office unless evidence is submitted to the governing body that would substantiate a finding that the teacher's activity has:

- (1) impaired the teacher's effectiveness in the teacher's service;
or
- (2) interfered with the performance of the teacher's contractual obligations.

A suspension is valid only during the period of the impairing activity.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-16

Teacher serving in the general assembly

Sec. 16. (a) If a teacher serves in the general assembly, the teacher shall be given credit for the time spent in this service, including the time spent for council or committee meetings. The leave for this service does not diminish the teacher's rights under the Indiana state teachers' retirement fund or the teacher's advancement on the state or a local salary schedule. For these purposes, the teacher is, despite the leave, considered teaching for the school during that time.

(b) The compensation received while serving in the general assembly shall be included for teachers retiring after June 30, 1980, in the determination of the teacher's annual compensation to compute the teacher's retirement benefit under IC 5-10.2-4. A teacher serving in the general assembly may choose to have deductions made from the teacher's salary as a legislator for contributions under either IC 21-6.1-4-9 or IC 5-10.3-7-9.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-17

School counselors; privileged or confidential information

Sec. 17. (a) Except as provided in IC 31-32-11-1, a school counselor is immune from disclosing privileged or confidential communication made to the counselor as a counselor by a student.

(b) Except as provided in IC 31-32-11-1, the matters communicated are privileged and protected against disclosure.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-18

Teacher's legal recourse for infringement of rights and privileges

Sec. 18. A teacher whose rights and privileges under sections 14 through 17 of this chapter are or are about to be infringed by a rule or regulation may, in accord with the law governing injunctions, seek to enjoin the school corporation from the infringement. A circuit or superior court shall issue the injunction if the court finds an infringement.

As added by P.L.1-2005, SEC.12.

IC 20-28-10-19

Daily free time for teachers

Sec. 19. (a) Each governing body and its administrators shall arrange each teacher's daily working schedule to provide at least thirty (30) minutes between 10 a.m. and 2 p.m. for a period free of duties.

(b) The state superintendent shall report each failure to comply with subsection (a) to the state board, which shall immediately inform the governing body of each alleged violation.

(c) If the school corporation persistently fails or refuses to comply with subsection (a) for one (1) year, the state board shall:

(1) lower the grade of accreditation of the school corporation;
and

(2) publish notice of that action in at least one (1) newspaper published in the county.

As added by P.L.1-2005, SEC.12.